SINGLE BENCH

CF-101

(1)

BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P. No. 4090 **Of 2006.**

PETITIONER :- 1. Aadil Raheem, son of A. Raheem, resident of Behind Church, Bayron Bazar, Raipur (Chhattisgarh),

2. Shafakt Ullaha Khan, son of S. Abdullah, resident of Behind Church, Bayron Bazar, Raipur (Chhattisgarh).

C.R. No. 4163/26
Presented by Smt. JK Gupta
dated 11/12/26

V E R S U S

RESPONDENTS :- 1. Smt. Meharunnisha Siddhique, widow of Salim Siddhique, resident of 21 New Panchsheel Nagar, Raipur (Chhattisgarh)

2. President, Anupam Grih Nirman Sahkari Samiti, J-6, Shri Ram Nagar, Raipur (Chhattisgarh).

PETITION UNDER ARTICLE 227 OF CONSTITUTION OF INDIA.

DETAILS OF PETITION :-

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..W.P.4090/ **सन् 2006**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

11-8-2006

Mr. H.B. Agrawal, Senior Advocate with Mr. J.K. Gupta, Advocate for the petitioners.

Heard, on admission.

By this writ petition under Article 227 of the Constitution of India, the petitioners have challenged the order dated 19-7-2006 passed by the Registrar, Cooperative Societies in its revisional jurisdiction, whereby the Registrar has affirmed the order dated 16-1-2006 passed by the Deputy Registrar, Cooperative Societies in which, learned Deputy Registrar allowing the applications of the respondents herein filed under Section 151 of the Code of Civil Procedure, allowed the plaintiffs for recalling the witness for tendering into evidence, the left out document.

Learned Senior Advocate argued that once the witness is examined and relieved, thereafter, only the Court was able to recall the evidence under Order 18 Rule 17 of the C.P.C. and not under Section 151 of the C.P.C. Therefore, the order passed by the Deputy Registrar recalling the witness of the plaintiffs is perverse.

Having heard learned counsel for the petitioners, I have perused the impugned orders as well as the writ petition. Under Article 227 of the Constitution of India this Court can interfere and exercise the power or invoke jurisdiction only to correct errors of jurisdiction. As has been held by the Apex Court in the matter of **Kishore Kumar Khaitan & another vs. Praveen Kumar Singh** reported in **(2006) 3 SCC 312** and further as has been held in the matter of **Surya Dev Rai vs. Ram Chander Rai & others** reported in **(2003) 6 SCC 675**, 'under Article 227 supervisory jurisdiction can be exercised for keeping subordinate courts within the bounds of their jurisdiction'. The Court further held that 'it is neither available for correcting

P.T.O.

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक (पूर्वानुबद्ध)

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mere errors of fact or law, available only when (i) error is manifest and apparent on face of record, and (ii) grave injustice or gross failure of justice has been occasioned thereby. The said jurisdiction can be exercised when a subordinate court assumed the jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction'.

In view of the above principle, if we look into the facts and circumstances of the present case, the Deputy Registrar allowed the application of respondent No.1 herein on the ground inadvertently the document which was already on the record was left out by mistake of the counsel tendering the document into evidence and therefore, the Deputy Registrar allowed the application and permitted to recall the witness in order to put questions to him. It cannot be said that the Deputy Registrar has acted without any jurisdiction or by allowing the said application any manifest injustice has been done to the petitioners herein.

In the circumstances, I am of the considered opinion that the petitioners have not been able to make out a case for interference by this Court under Article 227 of the Constitution of India. The writ petition is therefore, liable to be dismissed and it is hereby dismissed, in limine.

Consequently, M.(W.)P.No.3179/2006 stands disposed of.

Sd/-
L.C. Bhadoo
Judge

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